

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VINCENT A. CEFALU,
Plaintiff,
v.
ERIC H. HOLDER, JR.,
Defendant.

NO. C12-0303 TEH

ORDER GRANTING
PLAINTIFF'S MOTION FOR
LEAVE TO FILE AMENDED
COMPLAINT

Plaintiff Vincent A. Cefalu seeks leave to file a second amended complaint. Although Defendant Eric Holder styled his response to Plaintiff's motion as an opposition, he does not oppose allowing the amendment. To the contrary, he "simply requests that the Court provide two limited forms of relief in connection with the instant motion": first, that Cefalu be required to appear for an additional deposition on claims added to the complaint and, second, that Holder be allowed additional time to respond to the complaint. Opp'n at 7. Holder also contends that the proposed amended complaint "contains new causes of action that are patently defective and claims for relief that are barred by federal statute." *Id.*

After reviewing the motion and opposition, the Court concludes that no reply is necessary. The parties agree that Cefalu may file an amended complaint, and Cefalu's counsel has previously stated that they were "happy to revisit" the issue of Cefalu's further deposition "if the Complaint is amended." Oct. 16, 2012 email from Cefalu's counsel to Holder's counsel (Ex. B to Lee Decl.). Although counsel stopped short of agreeing to make Cefalu available for a further deposition following any amendment, Holder would necessarily be entitled to conduct discovery on any new allegations.

Accordingly, with good cause appearing, IT IS HEREBY ORDERED that Cefalu's motion for leave to file a second amended complaint is GRANTED. The amended complaint shall be filed on or before **December 10, 2012**. Prior to the filing of the amended complaint,

1 the parties shall meet and confer to attempt to avoid needless litigation by resolving Holder's
 2 concerns about the viability of the proposed new causes of action. The parties shall also
 3 attempt to reach a stipulation on the amount of time Holder will have to respond to the
 4 complaint. Cefalu shall be subject to a further deposition concerning any new allegations.¹
 5 The parties shall meet and confer on the length of such further deposition and attempt to
 6 reach agreement without involving Magistrate Judge Corley. This issue would not appear to
 7 require judicial intervention if both counsel are reasonable.

8 IT IS FURTHER ORDERED that the case management conference scheduled for
 9 December 10, 2012, is continued to **February 4, 2013, at 1:30 PM**. The parties shall file a
 10 joint case management conference statement on or before **January 28, 2013**.

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 12 **IT IS SO ORDERED.**

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 14 Dated: 11/19/12



THELTON E. HENDERSON, JUDGE
 UNITED STATES DISTRICT COURT

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 27 ¹The Court expresses no opinion on the parties' ongoing dispute concerning whether
 28 Cefalu must provide additional deposition testimony on the allegations in the First Amended
 Complaint. See Opp'n at 7 n.2.